



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2019-0071; Notice 1]

Toyota Motor North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Toyota Motor North America, Inc., (Toyota) has determined that certain model year (MY) 2013–2019 Toyota RAV4 and MY 2014–2019 Toyota Highlander motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 302, *Flammability of Interior Materials*. Toyota filed a noncompliance report dated June 19, 2019. Toyota subsequently petitioned NHTSA on July 12, 2019, and later amended that petition on August 13, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Toyota’s petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.

- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also

be viewed on the Internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

SUPPLEMENTARY INFORMATION:

I. Overview: Toyota has determined that certain MY 2013–2019 Toyota RAV4 and certain Toyota Highlander motor vehicles do not fully comply with paragraph S4 of FMVSS No. 302, *Flammability of Interior Materials* (49 CFR 571.302). Toyota filed a noncompliance report dated June 19, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Toyota subsequently petitioned NHTSA on July 12, 2019, and later amended its petition on August 13, 2019, for an exemption from the notification and remedy requirement of 49 U.S.C Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Toyota's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 2,144,217 MY 2013–2019 Toyota RAV4 and MY 2014–2019 Toyota Highlander/Highlander HV motor vehicles, manufactured between December 21, 2012 and March 28, 2019, are potentially involved.

III. Noncompliance: Toyota explains that the noncompliance is that the subject vehicles are equipped with floor mats that contain hook and loop fasteners that do not meet the flammability

requirements set forth in paragraphs S4.1 through S4.3(b) of FMVSS No. 302. Specifically, the loop side of the fastener that attaches the floor mat to the underlying padding is made from a material that is noncompliant.

IV. Rule Requirements: Paragraphs S4.1 through S4.3(b) of FMVSS No. 302 includes the requirements relevant to this petition. The portions described in paragraph S4.2 of the following components of vehicle occupant compartments shall meet the requirements of paragraph S4.3, seat cushions, seatbacks, seat belts, headlining, convertible tops, armrests, all trim panels including door, front, rear, and side panels, compartment shelves, head restraints, floor coverings, sun visors, curtains, shades, wheel housing covers, engine compartment covers, mattress covers, and any other interior materials, including padding and crash-deployed elements, that are designed to absorb energy on contact by occupants in the event of a crash. Any material that does not adhere to other material(s) at every point of contact shall meet the requirements of paragraph S4.3(a) when tested in accordance with paragraph S5, material described in paragraphs S4.1 and S4.2 shall not burn, nor transmit a flame front across its surface, at a rate of more than 102 mm per minute. The requirement concerning transmission of a flame front shall not apply to a surface created by cutting a test specimen for purposes of testing pursuant to paragraph S5. If a material stops burning before it has burned for 60 seconds from the start of timing, and has not burned more than 51 mm from the point where the timing was started, it shall be considered to meet the burn-rate requirement of paragraph S4.3(a)

V. Summary of Toyota's Petition:

The following views and arguments presented in this section, V. Summary of Toyota's Petition, are the views and arguments provided by Toyota. They have not been evaluated by the Agency and do not reflect the views of the Agency.

Toyota described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

Toyota submitted the following views and arguments in support of the petition:

1. When tested as a “composite,” FMVSS No. 302 criteria are met:

Toyota conducted FMVSS No. 302 burn testing of the loop fastener when assembled to the carpet as a “composite.” Toyota chose configurations to evaluate that were the most conservative in determining the material burn rate performance.

Toyota conducted burn rate testing using composite samples that were cut from mass production parts. Although the loop fasteners are not installed directly at the edge of the carpet, in order to test at the worst-case position for burn rate, Toyota tested with the fasteners aligned at the edge of the carpet.

As evidenced by the test data, the loop material complies with FMVSS No. 302 when tested as a “composite” as installed in the vehicle.

2. The loop fastener is not exposed directly to the occupant compartment air space:

As noted previously, the purpose of FMVSS No. 302 is to “reduce the deaths and injuries to motor vehicle occupants caused by vehicle fires, especially those originating in the interior of the vehicle from sources such as matches or cigarettes.” The noncomplying loop fastener material would normally not be exposed to open flame or an ignition source (like matches or cigarettes) in its installed application, because it is installed

beneath and completely covered by the carpet material which complies with FMVSS No. 302.

The loop fastener is layered between other FMVSS No. 302 compliant materials. The fastener is attached to the underside of the carpet for the purpose of attaching it to the underlying padding. No portion of the loop fastener material is visible or directly exposed to the occupant compartment as installed in the vehicle. As constructed, it would be highly unlikely that the loop fastener material would ever be exposed to ignition sources such as matches or cigarettes, identified in paragraph S2 of FMVSS No. 302 as a stated purpose of the standard. Because the loop fastener material is covered and layered between FMVSS No. 302-compliant materials, it would be extremely unlikely that a vehicle occupant would ever be exposed to a risk of injury as a result of the noncompliance.

Given the stated purpose of FMVSS No. 302, Toyota believes that the noncompliant loop fastener material, as installed in the vehicle, does not present a safety risk, and the chance of fire or flame propagation is essentially zero.

3. The loop fastener is a very small portion of the carpet assembly:

The loop fastener material is only a very small part of the overall mass of the soft material comprising the carpet assembly (i.e., up to a maximum of 0.037% depending on the vehicle model), and is significantly less in relation to the entire vehicle interior surface area that could potentially be

exposed to flame. Therefore, it would have an insignificant adverse effect on interior material burn rate and the potential for occupant injury due to interior fire.

4. There are no relevant field incidents:

Toyota conducted a search of consumer complaints, field reports, dealer reports, Vehicle Owner Questionnaires (VOQs), and legal claims for the subject vehicles and found no reports relating to ignition of the loop fastener. As of July 10, 2019, Toyota is not aware of any fires, crashes, or injuries in connection with this component in the subject vehicles.

5. In similar situations, NHTSA has granted petitions for inconsequential noncompliance relating to the subject requirement of FMVSS No. 302:

Toyota stated NHTSA has previously granted at least ten FMVSS No. 302 petitions for inconsequential noncompliance, one of which was for a vehicle's console armrest, one of which was for large truck sleeper bedding, one of which was for seating material, and six of which were for issues related to child restraints. A citation to each is provided below:

- Paccar (57 FR 45868, October 5, 1992) (Noncompliant tape edging surrounding otherwise compliant bedding materials in a large truck sleeper bed was deemed by the agency to be inconsequential).
- Fisher-Price (60 FR 41152, August 11, 1995) (Noncompliant fabric used in CRS shoulder straps was deemed to be inconsequential by the agency).

- Century (60 FR 41148, August 11, 1995) (Noncompliant seat covers were determined unlikely to pose a flammability risk when securely sewn to the seat).
- Cosco (60 FR 41150, August 11, 1995) (Noncompliant fabric used in CRS shoulder straps was deemed to be inconsequential).
- Kolcraft (63 FR 24585, May 4, 1998) (One or more of the fitting, face, or backing materials of CRS seat covers were noncompliant).
- Cosco (63 FR 30809, June 5, 1998) (Noncomplying fiberfill incorporated into a pillow located in a child restraint was inconsequential to safety due to the unlikelihood of exposure to an ignition source).
- Ford (63 FR 40780, July 30, 1998) (A noncompliant center console armrest “plus pad” was determined by the Agency to be inconsequential to safety in that, because of its location under an exterior cover).
- Graco (77 FR 14055, March 8, 2012) (Certain noncompliant warning labels attached to the outside of detachable accessory pillows were deemed inconsequential by the Agency due to the relatively small size of the label).
- Toyota (80 FR 4035, January 26, 2015) (Certain noncompliant front and rear seat back and seat cushion seat heaters were determined by the Agency to be inconsequential to safety in that the seat heaters were unlikely to pose a flammability risk).
- Toyota (83 FR 16433, April 16, 2018) (Certain noncompliant needle punch felt material used in the front and rear seat covers and rear center

armrest assemblies were determined by the Agency to be inconsequential to safety).

In support of Toyota's petition, Toyota submitted the following supplemental information in support of the petition:

Toyota stated that on July 31, 2019, Transport Canada (TC) notified Toyota Canada, Inc. (TCI) that it had evaluated information supplied by TCI in connection with a Notice of Noncompliance submitted to TC involving the same facts that gave rise to the part 573 Report that is subject of this inconsequentiality petition.

Transport Canada concluded that "there is no real or implied degradation to motor vehicle safety" presented by the noncompliance with FMVSS No. 302, and indicated that no further notification or remedy action is required."

Toyota concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Toyota no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of

the noncompliant vehicles under their control after Toyota notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey Mark Giuseppe,

Associate Administrator for Enforcement.

Billing Code 4910-59-P

[FR Doc. 2019-26086 Filed: 12/2/2019 8:45 am; Publication Date: 12/3/2019]